

United States District Court
Eastern District of California

O. Z. Martin,

Plaintiff,

vs.

Edward Almeida, et al.,

Defendants.

No. Civ. S 05-0934 FCD PAN P

Findings and Recommendations

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Plaintiff is a state prisoner prosecuting this civil rights
action without counsel.

July 13, 2005, the court dismissed plaintiff's claims
against defendants Edward Almeida and Tom L. Carey pursuant to 28
U.S.C. § 1915A, with leave to amend. The court informed
plaintiff he could proceed against defendants Tan, Leftwich, S.
O. Obedoza, Tessie R. Rallos, G. Cassey, G. Croll and Alvaro C.
Traquina by submitting materials for service within 15 days, but
the court would construe his election so to proceed as consent to

1 dismissal of his claims against defendants Edward Almeida and Tom
2 L. Carey without leave to amend.

3 July 26, 2005, plaintiff submitted materials for service of
4 defendants Tan, Leftwich, S. O. Obedoza, Tessie R. Rallos, G.
5 Cassey, G. Croll and Alvaro C. Traquina. I find plaintiff has
6 consented to dismissal of claims against defendants Edward
7 Almeida and Tom L. Carey without leave to amend.

8 Accordingly, the court hereby recommends that claims against
9 defendants Edward Almeida and Tom L. Carey be dismissed without
10 prejudice.

11 Pursuant to the provisions of 28 U.S.C. § 636(b)(1), these
12 findings and recommendations are submitted to the United States
13 District Judge assigned to this case. Written objections may be
14 filed within 20 days of service of these findings and
15 recommendations. The document should be captioned "Objections to
16 Magistrate Judge's Findings and Recommendations." The district
17 judge may accept, reject, or modify these findings and
18 recommendations in whole or in part.

19 Dated: August 4, 2005.

20 /s/ Peter A. Nowinski
21 PETER A. NOWINSKI
22 Magistrate Judge
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